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16 *the National Women's Law Center,*
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18 *Health, SisterLove, Inc., and the National*
19 *Asian Pacific American Women's Forum*

20 **IN THE UNITED STATES DISTRICT COURT FOR**
21 **THE NORTHERN DISTRICT OF CALIFORNIA**

22 STATE OF CALIFORNIA, et al.,

23 Plaintiffs,

24 vs.

25 ALEX M. AZAR II, et al.,

26 Defendants.

Case No. 4:17-cv-5783-HSG

**NOTICE OF MOTION AND MOTION
FOR LEAVE TO APPEAR AS AMICI
CURIAE AND TO FILE AMICUS
CURIAE BRIEF IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Date: Feb. 14, 2019

Time: 2:00pm

Judge: Hon. Haywood S. Gilliam

Courtroom: 2

27 TO EACH PARTY AND ATTORNEYS OF RECORD IN THIS ACTION: PLEASE
28 TAKE NOTICE that on February 14, 2019 at 2:00 p.m., or as soon thereafter as counsel can be

1 heard in Courtroom 2 of the United States District Court, Northern District of California, located
 2 on the 4th Floor 1301 Clay Street, Oakland, CA 94612, Proposed Amici Curiae the National
 3 Women’s Law Center, the National Latina Institute for Reproductive Health, SisterLove, Inc.,
 4 and the National Asian Pacific American Women’s Forum (“Amici”) will move this Court, for
 5 leave to file an amicus brief in support of Plaintiffs’ Motion for a Preliminary Injunction.
 6 Plaintiffs consent to this Motion. Defendants have not consented to this Motion.

7 **STATEMENT OF INTEREST**

8 Amici are national and statewide nonprofit and advocacy organizations committed to
 9 obtaining racial justice, economic security, gender equity, civil rights, and reproductive justice
 10 for all, which includes ensuring that women have access to full and equal health coverage,
 11 including contraceptive coverage without cost-sharing, as guaranteed by the ACA. They submit
 12 this brief to offer a research-backed assessment of the specific harms that will fall
 13 disproportionately on women of color and others facing multiple and intersecting forms of
 14 discrimination if the final rules regarding the ACA’s contraceptive coverage requirement (“Final
 15 Rules”) are permitted to take effect.

16 The National Women’s Law Center (“NWLC”) is a non-profit legal advocacy
 17 organization dedicated to the advancement and protection of women’s legal rights and
 18 opportunities since its founding in 1972. The Center focuses on issues of key importance to
 19 women and their families, including economic security, employment, education, health, and
 20 reproductive rights, with special attention to the needs of low-income women. Because access to
 21 contraception is of tremendous significance to women’s health, equality, and economic security,
 22 the Center seeks to ensure that women receive the full benefits of seamless access to
 23 contraceptive coverage without cost-sharing as intended by the ACA and has participated as
 24 amicus in numerous cases that affect this right.

25 The National Latina Institute for Reproductive Health (“NLIRH”) is the only national
 26 reproductive justice organization¹ dedicated to building Latina power to advance health, dignity,

27
 28 ¹ The term, “reproductive justice,” encompasses (1) the right to have a child, including control
 over birthing conditions; (2) the right not to have a child; and (3) the right to parent the children

1 and justice for 28 million Latinas, their families, and communities in the United States through
 2 leadership development, community mobilization, policy advocacy, and strategic
 3 communications. Reproductive justice will only be achieved when all people have the
 4 economic, social, and political power to make decisions about their bodies, sexuality, and
 5 reproduction with dignity and autonomy. NLIRH works to ensure that all Latinas of all racial
 6 identities have affordable access to all their options for safe, effective, and acceptable forms of
 7 contraception and family planning. NLIRH supports affordable, accessible, and quality health
 8 care for all persons, regardless of their immigration status, employment, age, gender identity,
 9 sexual orientation, or otherwise.

10 The National Asian Pacific American Women's Forum ("NAPAWF") is the only
 11 national, multi-issue Asian American and Pacific Islander ("AAPI") women's organization in the
 12 country. NAPAWF's mission is to build a movement to advance social justice and human rights
 13 for AAPI women, girls, and transgender and gender non-conforming people. NAPAWF
 14 approaches all of its work through a reproductive justice framework that seeks for all members
 15 of the AAPI community to have the economic, social, and political power to make their own
 16 decisions regarding their bodies, families, and communities. NAPAWF's work includes
 17 advocating for the reproductive health care needs of AAPI women and ensuring AAPI women's
 18 access to reproductive health care services. Legal and institutional barriers to reproductive
 19 health care disproportionately impact women of color, low-income women, and other
 20 marginalized groups. Without legal protection to ensure meaningful, affordable access to basic
 21 reproductive health care, including contraception, many AAPI women are left without the crucial
 22 health and family planning services that they need to be able to make their own decisions
 23 regarding their bodies, families, and communities. Consequently, NAPAWF has a significant
 24 interest in ensuring that all people, regardless of their economic circumstances, immigration
 25

26 Loretta Ross, *What Is Reproductive Justice?*, Reproductive Justice Briefing Book: A Primer on
 27 Reproductive Justice and Social Change, Berkley Law, 4 [https://www.law.berkeley.edu/php-](https://www.law.berkeley.edu/php-programs/courses/fileDL.php?fID=4051)
 28 [programs/courses/fileDL.php?fID=4051](https://www.law.berkeley.edu/php-programs/courses/fileDL.php?fID=4051). Reproductive rights, by contrast, addresses the
 individual's right to the full range of reproductive services.

1 status, race, gender, sexual orientation, or other social factors, have affordable access to safe and
2 effective contraception.

3 Founded in July 1989, SisterLove, Inc. (“SisterLove”) is an HIV/AIDS and reproductive
4 justice nonprofit service organization focusing on women, particularly women of African
5 descent, and has the distinction of being the oldest nonprofit of its kind in the State of Georgia.
6 SisterLove’s mission is to eradicate the adverse impact of HIV/AIDS and other sexual and
7 reproductive oppressions upon all women, their families, and their communities in the United
8 States and worldwide through education, prevention, support, and human rights advocacy. To
9 realize this mission, SisterLove engages in advocacy, reproductive health education, and
10 prevention. SisterLove seeks to educate and empower youth and women of color to influence
11 the laws and policies that disparately impact them.

12 The Appendix to the amicus curiae brief that Amici seek leave to file lists 40 additional
13 Amici.

14 **ARGUMENT**

15 Amici hereby request permission to file the attached amicus curiae brief in support of
16 Plaintiffs’ Motion for a Preliminary Injunction. Counsel for Amici has reviewed the complaint
17 in this action, as well as the Ninth Circuit’s decision remanding the case to the District Court,
18 and believes it can assist the Court in resolving a key issue on remand: whether enforcement of
19 the Trump Administration’s final rules regarding the Affordable Care Act’s (“ACA”) contraceptive
20 coverage requirement will cause irreparable harm to individuals nationwide,
21 especially those facing multiple and intersecting forms of discrimination.

22 Amici have a strong interest in the disposition of this case, which will affect individuals’
23 access to contraceptive coverage without cost-sharing, particularly for those whose interests
24 Amici serve, and who already face multiple and intersecting forms of discrimination in accessing
25 healthcare. As organizations that specialize in addressing issues of reproductive justice and
26 reproductive rights, Amici are uniquely situated to provide the Court with information helpful for
27 the resolution of this case beyond the specific perspectives provided by counsel for the parties.
28 *See Neonatology Assocs., P.A. v. Comm’r*, 293 F.3d 128, 132 (3d Cir. 2002); *cf. O’Brien v. U.S.*

1 *Dep't of Health and Human Servs.*, No. 12-3357 (8th Cir. Jan. 14, 2013) (granting the National
2 Women's Law Center's motion for leave to appear as amicus curiae and filing its proposed
3 brief). Amici bring to bear years of experience with the ACA's contraceptive coverage
4 requirement, including serving as amicus curiae in other cases concerning challenges to the ACA
5 contraceptive coverage requirement and the interim version of the final rules. *See, e.g., Burwell*
6 *v. Hobby Lobby Stores, Inc.*, No. 13-354 (U.S.); *Zubik et al. v. Burwell et al.*, Nos. 14-1418, 14-
7 1453, 14-1505, 15-35, 15-105, 15-119, and 15-191 (U.S.); *California v. Azar II, et al.*, Nos.
8 18-15144, 18-15166, and 18-15255 (9th Cir.).

9 The attached brief will assist the Court in resolving the issues presented by this case by
10 explaining that, contrary to Defendants' claims, many individuals will lose contraceptive
11 coverage under the Final Rules. Moreover, the brief will explain why women of color, low-
12 income individuals, young people, and others who already face systemic discrimination and
13 barriers to health care will be particularly harmed by the Final Rules. Drawing from Amici's
14 expertise in issues relating to access to contraception and reproductive health care, and Amici's
15 intimate understanding of the communities they represent, the brief offers a research-backed
16 assessment of the potential harm to individuals nationwide. Amici respectfully submit that their
17 perspectives and experiences in addressing reproductive health and justice issues may assist the
18 Court in resolving this case. Accordingly, Amici respectfully request leave to file the attached
19 amicus curiae brief in support of Plaintiffs' Motion for a Preliminary Injunction.

1 DATED: January 7, 2018

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*(Amici appreciate the assistance of Nina Serrienne at the National Latina Institute for
Reproductive Health for her role in the preparation of this motion)*